ZONING COMMISSIONER (6 lots) ⋆ OF BALTIMORE COUNTY lst Election District 1st Councilmanic District Case No. 92-43-SA Joseph C. Fertitta, et ux

Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

\* \* \* \* \* \* \* \* \* \* \*

This matter comes before the Zoning Commissioner as a Petition for Special Variance from Section 4A02.4.D of the Baltimore County Zoning Regulations (B.C.Z.R.) pursuant to Section 4A02.4.F.1 of the B.C.Z.R. relating to transportation standards of intersections for a non-industrial development.

The Petitioners, Joseph C. and Marie Fertitta appeared, testified and were represented by John H. Dumler, Esquire. Also appearing and testifying on behalf of the Petition was Paul Lee, the Engineer who prepared the plat to accompany the Petition for Special Variance, marked as Petitioners' Exhibit No. 1. Appearing as Protestants were Ann Klingaman, Mary Stigler and Robert Windsor, all residents of the neighboring locale.

Testimony from Mr. Lee established that the subject property is 4.25 acres(+/-) in size and is zoned D.R.3.5. Presently, the property is vacant, however, development as residential detached lots is proposed. Although 14 lots would be allowed under the applicable zoning density, only 6 lots are proposed.

Mr. Lee also reviewed the extensive history of this project, which began in 1987. He testified that the C.R.G. plan was originally approved O 👸 👸 on April 22, 1988 and that extensions and refinements to the aforementioned plan were ultimately approved by the County Review Group earlier this year. Further, the developer's storm water management variance request was granted on December 4, 1990 and the subdivision plat for the 6 lots was recorded on June 17, 1991. Lastly, building permits for the 6 properties were approved on April 11, 1991.

In addressing the subject Petition for Special Variance, it is vital to distinguish the relief which is being requested versus the concerns which were voiced by the Protestants. The Petition before me does not seek relief from the current school moratorium legislation (Bill 127-90) nor does it relate to storm water management issues. As to the school moratorium legislation, the Baltimore County Office of Law; by its written opinion dated April 11, 1991, held that the Petitioner is grandfathered from that requirement because his actions satisfy the requirements of the due diligence exception within the legislation. That is, the Office of Law has opined that the Petitioner acted in due diligence in moving this project forward to approval and is thereby exempt from the moratorium. As to the storm water management issues, there was extensive discussion of those at the hearing. Mr. Lee addressed the storm water ramifications of this project in detail in order to satisfy the expressed concerns of the As indicated above, the storm water management variance Protestants. was granted in December of 1990 and this project has been approved by the C.R.G. Thus, the sole issue for the Zoning Commissioner to decide is whether the special variance should be granted.

In support of this Petition, Mr. Lee stated that the subject development will not adversely impact the failing intersection at Valley and South Rolling Roads, because most traffic generated by the development will be routed away from that intersection. Thus, Mr. Lee concluded, the

impact of the development proposed would be less than assumed by the district standard that would, otherwise, restrict or prohibit the development. Further, Mr. Lee testified that the granting of the Petition would not adversely affect any other person whose application was filed prior to the Petitioners' application, as required by Section 4A02.4.F.1b. As indicated above, there was little testimony from the Protestants as to this issue; rather, their concerns over storm water management were voiced. In that Mr. Lee's testimony in support of the Petition was uncontradicted, it is my opinion that the Petition for Special Variance be granted and it shall be so ordered.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore Section 4A02.4.D of the Baltimore County Zoning Regulations (B.C.Z.R.), pursuant to Section 4A02.4.F.1 of the B.C.Z.R. relating to transportation standards of intersections for a non-industrial development, be and is hereby GRANTED, subject, however, to the following restriction which are conditions precedent to the relief granted:

> The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

> > Zoning Commissioner for Baltimore County

Paul Los P.E.

Paul Loe Engineering Inc. 301 W. Pansylvania Aca Towson, Maryland 21201 301-821-5941

HILTON TERRACE NORTH OF OAK COURT

ELECTION DISTRICT 1C-1

FERTITTA PROPERTY

BALTIMORE COUNTY, MARYLAND Beginning for the same at a point on the east side of Hilton Terrace, said point also being located N 44033'00" E 180 feet + from the center of Oak Court; thence leaving said

point and binding on the south property line of subject property (1) S 41°27'00" W 690.00 feet; thence leaving said south property line (2) N 48<sup>0</sup>33'00" W 264.92 feet, thence (3) N 41<sup>0</sup>27'00" E 708.53 feet, and (4) S 44°33'00" E 265.57 feet to the point of

Containing 4.25 acres of land, more or less.



Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 2120+

September 11, 1991

NOTICE OF REASSIGNMENT

CASE NUMBER(S): PROPERTY OWNER(s): Joseph C. Fertitta

E/S Hilton Terrace, 180' NELy Oak Court

THE ABOVE MATTER HAS BEEN REASSIGNED. HEARING WILL NOW TAKE PLACE AS

TUESDAY, OCTOBER 8, 1991 at 9:00 a.m.

IN THE BALTIMORE COUNTY COURTHOUSE, 400 WASHINGTON AVENUE, ROOM 118, TOWSON, MARYLAND 21204.

BALTIMORE COUNTY

cc: John H. Dumler, Esq. Joseph C. Fertitta, et ux

Case Number: 92-43-SA
E/S Hilton Terrace, 180'
(+/-) NEly of Oak Court
(6 lots)
1st Election District
1st Councilmento:
Petitioner(s):
Joseph C. Fertita, st ux
Hearing Date: Wednesday
October 2, 1991
at 9:00 a.m.

CERTIFICATE OF PUBLICATION

TOWSON, MD., (114 30 , 1941 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of \_\_\_\_ successive weeks, the first publication appearing on this 24, 1991.

THE JEFFERSONIAN,

5. Tete Orlan

303 - 5H.00

THENT OF BALTIMORE COUNTY

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Posted for: Stand Contact.	a It we
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Cho of Oak Court (6 lot	es Court in front of BW Freding
to autist to retarte	
Remarks: PLF0276 9-13-91	FOR NEW DATE  Date of return: 9-13-51

Petition for Variance

to the Zoning Commissioner of Baltimore County 92-43-54 The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Variance from Section 4A02.4D of the Baltimore County Zoning Regulations

(B.C.Z.R.) pursuant to Section 4A02.4F.1 of B.C.Z.R. relating to

transportation standards of intersections for a non-industrial development.

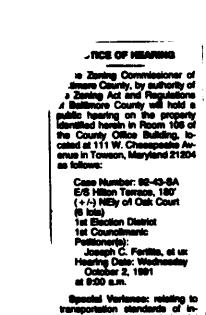
of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty) A. That the demand or impact of the development proposed will be less than that assumed by the district standard that would otherwise restrict or prohibit the development; or the standard is not relevant and

B. The granting of the petition will not adversely affect a person whose application was filed prior to the petitioners application in accordance with subsection 4.A02.3.G.2.B. Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance petition, and further agree to and are to be bound by Baltimore County adopted pursuant to the Zoning Law	advertising, posting, etc., upon filing of this - 5. 14-7-14 the zoning regulations and restrictions of For Baltimore County.
Contract Day 1 /	I. We do solemnly declare and affirm; under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Pelition.
Contract Furchiser/Lessee:	Legal Owner(s):
(Type or Print Name)	Joseph C. Fertitta  Vispe of Print Name  1000
Signature	Signature OP
Address	Marie Fertitta  (Type or Print Name)
City and State	Signature
Attorney for Petitioner:	
John H. Dumler (Type or Frint Name)	1322 Ridge Road 744-3352 Address Phone No.
Signature	Baltimore, Maryland 21228 City and State
2 E. Fayette St., Suite 200	Name, address and phone number of legal owner, con- tract purchaser or representative to be contacted
Baltimore, Maryland 21202 City and State	John H. Dumler
Attorney's Telephone No.: 752-1187	See above Address Thene No.
RDER RECEIVED FOR FILING	OFFICE USE ONLY
HUER RECEIVED TO	ESTIMATED LENGTH OF HEARING -1/2HR. +1HR.  AVAILABLE FOR HEARING  MON./TUES./WED NEXT TWO MONTHS

## **CERTIFICATE OF PUBLICATION**

REVIEWED BY: CAM DATE IX July !!



THIS IS TO CERTIFY, that the annexed advertisement was published in the CATONSVILLE TIMES, a weekly newspaper published in Baltimore County, Md., once in each of successive weeks, the first

**CATONSVILLE TIMES** 

5. Zele Olim

303-54.00

•	Baltimore County					
	Zoning Commisioner County Office Building 111 West Chesapouke Avenue Towson, Maryland 21204		Account: R-00 Number	1-6150		
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88- 4353

Case Number: 92-43-SA E/S Hilton Terrace, 180' (+-) NEly of c/l Oak Court lst Election District - 1st Councilmanic Petitioner(s): Joseph C. Fertitta, et ux HEARING: WEDNESDAY, OCTOBER 2, 1991 at 9:00 a.m.

pear Petitioner(s):

Please be advised that \$ 77.00 is due for advertising and posting of the above captioned

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

ZONING COMMISSIONER BALTIMORE COUNTY, MARYLAND

John H. Dumler, Esq.

Paltimore County
Zoning Commit

Zoning Commisioner

111 West Chesapeake Avenue

Gwson, Maryland 21204

1127

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD (2120)

COPY

AUGUST 13, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 92-43-SA E/S Hilton Terrace, 180' (+-) NEly of c/l Oak Court 1st Election District - 1st Councilmanic Petitioner(s): Joseph C. Fertitta, et ux HEARING: WEDNESDAY, OCTOBER 2, 1991 at 9:00 a.m.

Special Variance relating to transportation standards of intersections for a non-industrial development.

cc: Joseph and Marie Fertitta John H. Dumler, Esq.

Baltimore County

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

DATE: August 23, 1991

PK/JL:rdn

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\$ 12 JA

Account: R-001-6150

Sound House TUST

Please Make Checks Payable To: Baltimore County

Zoning Administration and Development Management

Pat Keller, Deputy Director Office of Planning and Zoning

Arnold Jablon, Director

SUBJECT: Fertitia Property, Item No. 26

In reference to the applicant's request, staff submits the attached memo which is self-explanatory.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

BUREAU OF TRAFFIC ENGINEERING DEPARTMENT OF PUBLIC WORKS

cc: Mr. & Mrs. Jospeh C. Fertitta

1322 Ridge Road Baltimore, MD 21228

Date: August 30, 1991

BALTIMORE COUNTY, MARYLAND

TO: Mr. Arnold Jablon, Director Office of Zoning Administration and Development Management

FROM: Rahee J. Famili SUBJECT: Z. A. C. Comments

Z. A. C. MEETING DATE: July 30, 1991

This office has no comments for item numbers 505,

3, 9, 10, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 30 and 31.

Traffic Engineer II

RJF:bza

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

RE: Item No. 26, Case No. 92-43-SA

Petition for Sepcial Variance

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not

intended to indicate the appropriateness of the zoning action

requested, but to assure that all parties are made aware of plans or

problems with regard to the development plans that may have a bearing

on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will

forward them to you. Otherwise, any comment that is not informative

will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO

MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS

REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Petitioner: Joseph C. Fertitta, et ux

Zoning Plans Advisory Committee

September 25, 1991

111 West Chesapeake Avenue

John H. Dumler, Esquire

Baltimore, MD 21202

Dear Mr. Dumler:

requested zoning.

scheduled accordingly.

JED:jw

Enclosures

2 E. Fayette Street, Suite 20

Towson, MD 21204

887-3353

111 West Chesapeake Avenue Towson, MD 2120+

Baltimore County Government Office of Zoning Administration and Development Management
Office of Planning & Zoning

887 3353

Your petition has been received and accepted for filing this 18th day of July, 1991.

Zoning Plans Advisory Committee

Petitioner: Joseph C. Feritta, et ux Petitioner's Attorney: John H. Dumler

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

August 15, 1991 ZONING COMMISSIONER, DEPARTMENT ZONING

FROM: RICHARD F. SEIM, PLANS REVIEW CHIEF, DEPARTMENT OF PERMITS & LICENSES

SUBJECT:

ZONING ITEM #: 26 PROPERTY OWNER: Joseph C. Fertitta, et ux

LOCATION: E/S Hilton Terrace, 180' (+/-) Nely of centerline Oak Court (6 lots) ELECTION DISTRICT: 1st COUNCILMANIC DISTRICT: 1st

A REVIEW OF THE SITE PLAN FOR THE ABOVE ZONING ITEM INDICATES THE FOLLOWING:

( ) PROPOSED SITE PLAN DOES, DOES NOT, COMPLY TO STATE CODE OF MARYLAND REGULATION 05.02.02, MARYLAND BUILDING CODE FOR THE HANDICAPPED.

( ) PARKING LOCATION ( ) NUMBER PARKING SPACES ( ) BUILDING ACCESS

( ) RAMPS (degree slope) ( ) CURB CUTS ( ) SIGNAGE

( ) PLAN DOES, DOES NOT COMPLY TO SET BACKS FOR EXTERIOR FIRE SEPARATION DISTANCE OF ARTICLE 5 AND ARTICLE 9 OF THE CURRENT BALTIMORE COUNTY BUILDING CODE.

( ) A BUILDING PERMIT IS REQUIRED BEFORE ANY CONSTRUCTION CAN BEGIN. SECTION 111.1 OF ARTICLE 1. CONSTRUCTION DRAWINGS MAY BE REQUIRED.

( ) A CHANGE OF OCCUPANCY PERMIT IS REQUIRED TO CHANGE THE EXISTING USE OF THE STRUCTURE TO THE PROPOSED USE. SEE ARTICLE THREE AND ARTICLE ONE, SECTION 103.2 ALTERATIONS MAY BE NECESSARY BY CODE TO COMPLY TO NEW USE REQUIREMENTS.

( ) STRUCTURE IS SUBJECT TO FLOOD PLAIN LIMITATIONS, SECTION 517.0 COUNCIL BILL #192-90 ( BALTIMORE COUNTY BUILDING CODE).

( ) OTHER -

PERMITS MAY BE APPLIED FOR @ ROOM 100, 111 WEST CHESAPEAKE AVENUE, TOWSON, MARYLAND 21204 - PHONE - 887-3900.

THIS REVIEW COVERS ONLY MAJOR ITEMS ASSOCIATED WITH THE SITE PLAN, A FULL REVIEW MAY BE CONDUCTED WHEN THE PERMIT APPLICATION AND PLANS ARE APPLICABLE CODE: 1990 NATIONAL BUILDING CODES AS ADOPTED BY COUNTY COUNCIL BILL #192-90 EFFECTIVE 1/13/91







BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

TO: Arnold Jahlon, Director DATE: August 1, 1991 Zoning Administration and Development Management FROM: Robert W. Bowling, P.E.

Zoning Advisory Committee Meeting for July 30, 1991

The Developers Engineering Division has reviewed the subject soning items and we have no comments for Items 505, 3, 7,  $\overline{9}$ , 10, 17, 18, 19, 21, 22, 23, 24, 27, 30 and 31.

For Item 20, the extension of public water, sewer and paving may be required, prior to issuance of a building permit for this let.

For Item 26, the previous County Review Group comments are still applicable.

> ROBERT W. BOWLING, P.E., Chief Developers Engineering Division

PAUL LEE ENGINEERING INC.

COURT HOUSE

304 W. PENNSYLVANIA AVE.

TOWSON, MARYLAND 21204

301 - 821-5941

TOWSON MD. ZIZOY

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

111 West Chesapeake Avenue Towson, MD 21204

337 3353

November 14, 1991

John H. Dumler, Esquire 2 E. Fayette Street, Suite 200

Baltimore, Maryland 21202 RE: Petition for Special Variance Joseph C. Fertitta, et ux, Petitioners Case No. 92-43-SA

Dear Mr. Dumler:

Enclosed please find the decision rendered in the above captioned case. The Petition for Special Variance has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

> Lawrence E. Schmidt Zoning Commissioner

LES:mmn cc: Mr. and Mrs. Joseph C. Fertitta

Letter of transmittal 4-5-91 "8036 "MR ARNOLD JADION FERTITIA PROPERTY TO LEGAL OFFICE - BALTIMORE COUNTY

LIST OF PROCESSING FOR VARIOUS SUBMITTALS WONTES COPIES DATE NO. TIME TABLE CHART \_\_\_\_\_ PRINTS RETURNED AFTER LOAN TO US SIGNED: Signed James Land Standing mostly up at once.



October 10, 1991

Mr. J. Robert Haines Zoning Commissioner of Baltimore County County Office Building

111 W. Chesapeake Ave. Towson, Md. 21204

Subject: Petition for Variance Case No. 92-43-SA

Dear Mr. Haines:

The South Rolling Road Community Association is opposed to the granting of zoning variance to Joseph C. and Marie Fertitta for development of six residential detached lots between Brook Rd., Oak Ct., and Hilton Terrace in Catonsville, Maryland. We support those neighbors bordering that property that are opposed to the development.

The first and foremost reason for our opposition is because this development will simply add more traffic burden to the area roads which are now at a crisis point. The intersection at Valley Road and South Rolling Road is a failing intersection. Proponents would argue that this would only add a few more autos to the road. We are now seeing the results of years of just this type argument and the traffic gridlock it has created all over Southeastern Baltimore County. These lots are right in the center of a very densely populated area and the development traffic would flow right onto South Rolling Road at Newburg Ave. Residents have reported to us that it is already very difficult to enter the intersection at Newburg and S. Rolling Rd. There have been many accidents at this intersection, with one resulting in a death this past spring.

Other questions come to mind. Why is the project being given an exemption to the building moratorium that is in effect? This is going to add more students to the already overcrowded school system. How many trees will be left after the building lots are prepared or will the land be denuded?

CASE DRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
CORN C FERTITA	1322 RIDGI RD. 21228
<del></del>	<del></del>
granting of the proposed special	chood which would be directly
Mary Milliagram	1021 15 See 1 Jed 11 212 18
m. (m.) 7/2 + 4 + 16	
Misery the Studie	1301 Buch La 21228
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and the South	MAR Knockhill (112)
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Mark liste and	309 Hilton Ave 21228
May Her Durich	1337 Brook Ld 21228
Shert W Dorrich	1351 F300K Rd 2128
Sherry Hactuat	1334 Brook Read 21228
Warpa Bufile	1338 Brook Road 21228
South Rolling Road Con	nmunity $oldsymbol{A}$ ssociation

The proposed building site has had a long history of flooding. In fact, a portion of it is part of a one hundred year flood plane. Where are the safeguards for the families living there now, that their flooding problems will not just get worse? Development done haphazardly could lead to disastrous results for those nearby. Who then will be responsible?

In closing I restate that our schools are so overcrowded that there is currently a building moratorium. Our roads are so clogged that accidents are sharply on the rise and intersections failing. We respectfully request a denial of this petition for variance.

> Sincerely, Stract Allina Stuart A. Renaud, President South Rolling Road Community Assn. 407 S. Rolling Road Catonsville, Maryland 21228

development to be located where Oak Court and Hilton Terrace meet. We reside in the neighborhood which would be directly affected by the granting of the proposal. 1322 ALLAN TERROR - 2 200 Wartch Chein SCI Militar 1 re 21228 the diego Bea yeloman 108 PARKER Balto NV 21228 - ralla / lance Stanley Vr. Bult. of. 21228 Caroline E. alder 207 S. Rolling Road 21228 You Flower Sea Dioonstary Acre. 2122%

We, the undersigned, hereby strongly object to the

transportation standards of intersections for a non-residential

granting of the proposed special variance relating to

Dob Blomqui

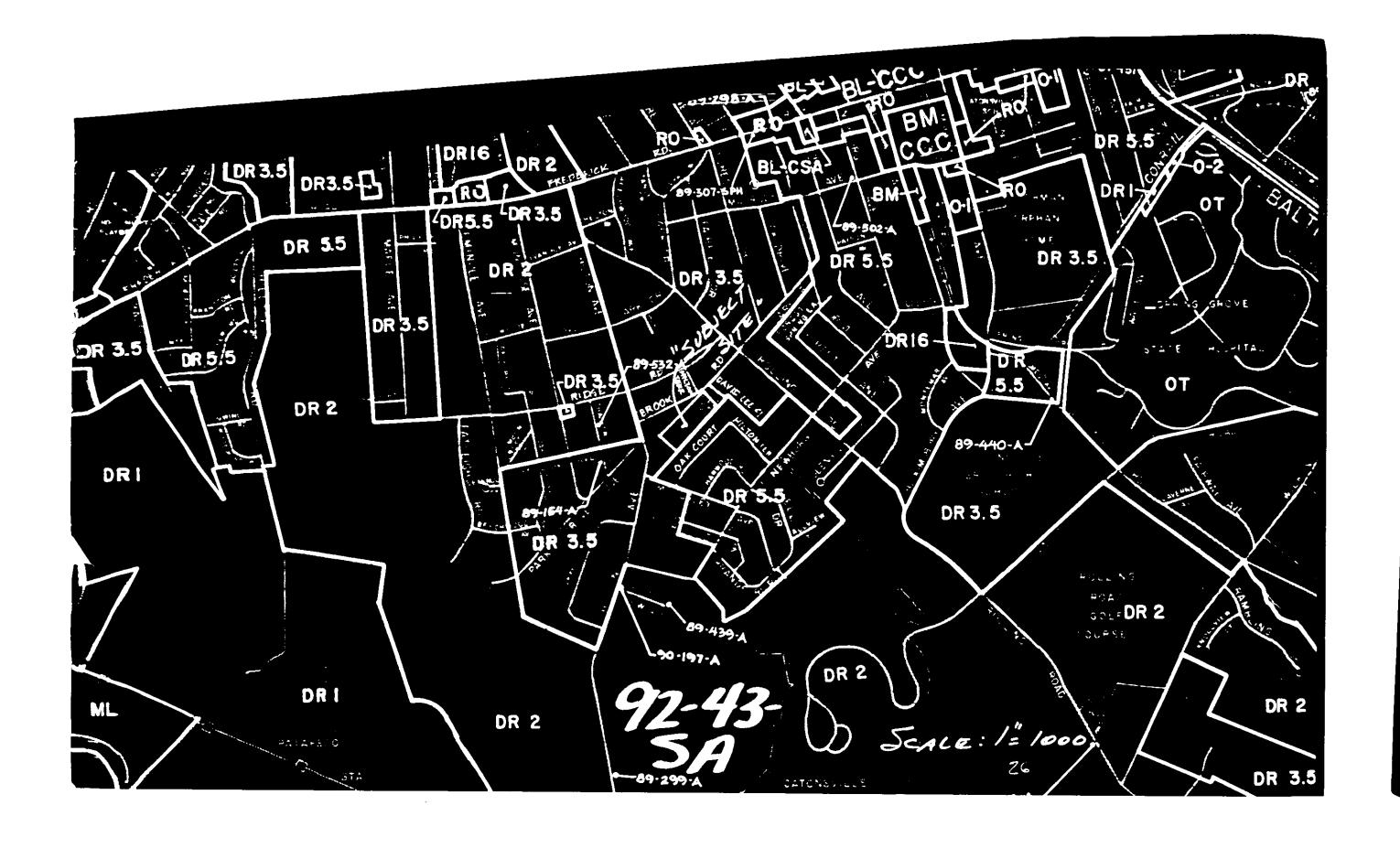
Julian Lucia

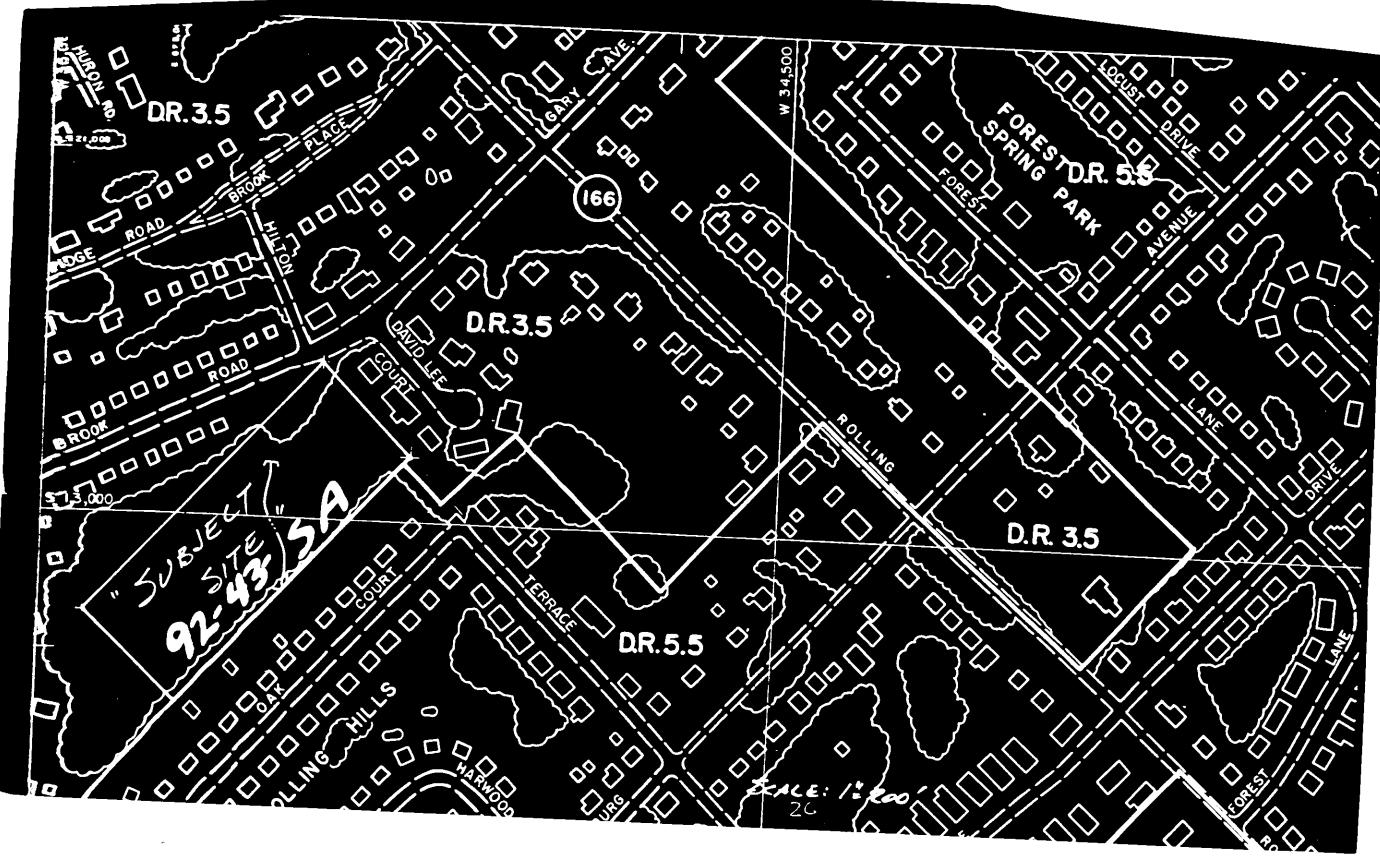
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Charles of the contract

We, the undersigned, hereby strongly object to the granting of the proposed special variance relating to transportation standards of intersections for a non-residential development to be located where Oak Court and Hilton Terrace meet. We reside in the neighborhood which would be directly affected by the granting of the proposal.

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Ludical y Tunnel	410 Forest Lu. 21228
Jun to James 1917	1203 Sandfor Off 21227
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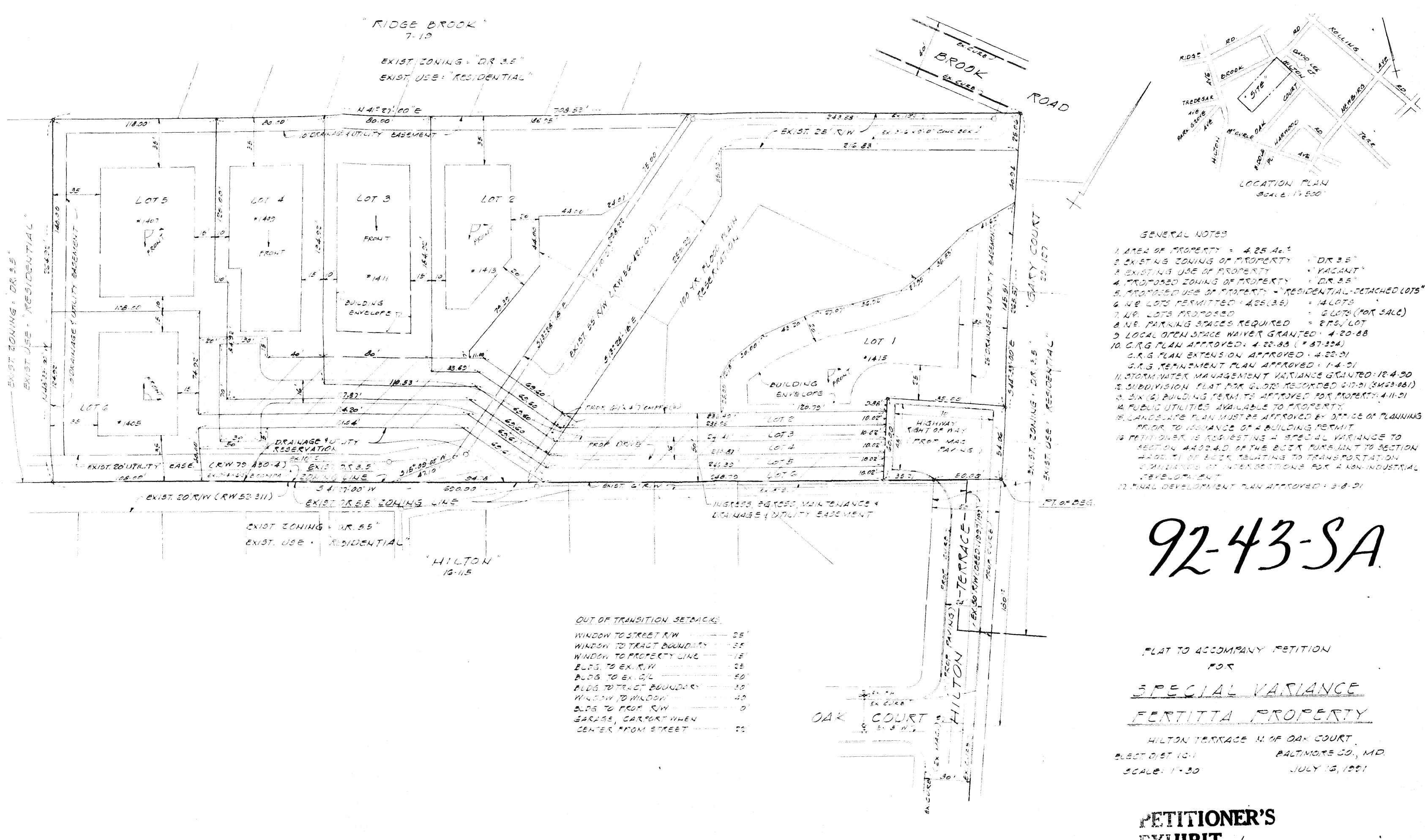


EXHIBIT \_\_\_



FAUL LEE ENGINEERING, INC. 304 W. PENNSYLVANIA AVENUE TOWSON, MARYLAND 21204